

[Identification of All Parties and
All Counsel Appear on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CHEVRON TCI, INC.,
Plaintiffs,

vs.

CARBONE PROPERTIES MANAGER,
LLC, ET AL.,
Defendants.

Civil Action No. 3:08-CV-00782

**UPDATED JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Case Management Conference
Date: September 5, 2008
Time: 1:30 p.m.
Before: Hon. Joseph C. Spero

This Updated Joint Case Management Conference Statement is submitted jointly by Plaintiff CHEVRON TCI, INC. ("CHEVRON") and Defendants CARBONE PROPERTIES MANAGER, LLC ("CPM"), ROSS P. CARBONE ("ROSS CARBONE"), and R.P. CARBONE COMPANY ("RPCC") (collectively, "CARBONE") pursuant to the Court's Standing Order Regarding the "Contents of Joint Case Management Conference Statements" and the Stipulation and Order for Continued Mediation Date that was entered in this case on July 15, 2008 ("Stipulation and Order").

On August 19, 2008, and pursuant to this Court's May 9, 2008 order referring the case to the ADR Unit and the July 15, 2008 Stipulation and Order, the parties participated in a Mediation session. The Mediation session did not result in a resolution of this case.

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1 **1. Facts**

2 The facts and the nature of the case have been outlined in the parties previous Joint Case
3 Management Statement and papers to the court.

4 CHEVRON states:

5 On April 30, 2007, CHEVRON, CPM and the Company entered into the Agreement and
6 Instrument of Transfer (the "Agreement"). Pursuant to the Agreement, CPM agreed to pay
7 CHEVRON \$2,367,710 plus compound interest at twelve percent until June 26, 2007 and, if not
8 paid by that date, fifteen percent thereafter (the "Obligation"). The Obligation also was evidenced
9 by a Promissory Note, with CPM as the payor and CHEVRON as the payee. RPC and ROSS
10 CARBONE guaranteed CPM's obligations under the Agreement and the Promissory Note,
11 including the Obligation. In exchange for those promises to pay, CHEVRON transferred its rights
12 and interest in the Company to CPM.

13 The Carbone Group has not challenged the validity of the Obligation and they have
14 expressed an interest in settling this matter. However, despite efforts at reaching a settlement,
15 CHEVRON has not received any assurances from the CARBONE GROUP that payment is
16 forthcoming. Further, the CARBONE GROUP has only recently informed CHEVRON that it is
17 experiencing financial difficulties -- a fact that was never mentioned during the parties' settlement
18 discussions.

19 The Court-ordered mediation that took place between the parties on August 19, 2008 failed
20 to produce a resolution to this dispute.

21 **2. Motion Practice**

22 CHEVRON states:

23 As the settlement negotiations and mediation have not been productive, CHEVRON will
24 move for summary judgment since the facts and legal issues are not in dispute.

25 **3. Amendment of the Pleadings**

26 CHEVRON states:

27 CHEVRON does not anticipate filing any amendments to the pleadings at this time.

28 //

1 **4. Discovery**

2 CHEVRON states:

3 No discovery has been taken to date. As CHEVRON prepares to move for summary
4 judgment, CHEVRON is conducting informal discovery into the Defendants' net worth.

5 CARBONE states:

6 CHEVRON has requested, and CARBONE has agreed, to conduct informal discovery
7 regarding the financial status of CARBONE in light of the issues discussed during the August 19,
8 2008 Mediation. Specifically, CHEVRON has requested certain financial information regarding
9 CARBONE and several of its related entities as such relates to CARBONE's ability to resolve the
10 issues in this case. ROSS CARBONE states that he is presently compiling documents and records
11 responsive to CHEVRON's request and expects to provide said documents and records directly to
12 CHEVRON officer Richard Sheehy on or before September 1, 2008. CARBONE has not requested
13 any discovery, formal or informal of CHEVRON to date and does not anticipate doing so at this
14 time.

15 **5. Related Cases**

16 The parties are not aware of any related cases pending in any venue or jurisdiction.

17 **6. Relief**

18 CHEVRON states:

19 As of the August 19, 2008 mediation date, the total amount owed as principal and interest
20 on the Promissory Note (excluding late payment fees and costs) is \$2,613,143, with interest
21 continuing to accrue at the rate of \$1,023 per day through April 20, 2009, at which point the daily
22 rate will increase. In addition, CHEVRON has exercised its option to charge a late fee under the
23 Promissory Note of 5% of the overdue payment, which late fee would be \$130,657 if all amounts
24 due were paid on August 19, 2008. Further, CHEVRON has accrued approximately \$29,000 in
25 costs and attorneys' fees, such costs and fees continue to accrue as this matter remains unresolved
26 and will necessarily increase if CHEVRON is required to bring a motion for summary judgment.
27 CHEVRON seeks a recovery of the unsatisfied amount owed from CPM plus payment of attorneys'
28 fees and other costs incurred by CHEVRON in collection on the note, or in otherwise protecting its

1 interests in regard thereto.

2 **7. Settlement and ADR**

3 CHEVRON states:

4 CHEVRON remains open to any reasonable proposal that will result in payment of the debt
5 and would consider a stipulated judgment in order to avoid the time and effort of a motion for
6 summary judgment.

7 CARBONE states:

8 The parties remain engaged in settlement discussions in furtherance of a potential resolution
9 of the claims asserted in this case.

10
11 Respectfully submitted,

12 Dated: August 29, 2008

13 /s/ Elizabeth R. Burkhard
14 MATTHEW VAFIDIS [SB# 103578]
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